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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/664,560

09/17/2003

Howard Thomas Deason

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27752 7590 08/05/2010  
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EXAMINER

GRAY, JILL M

ART UNIT

PAPER NUMBER

1782

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/664,560	<b>Applicant(s)</b> DEASON ET AL.	
	<b>Examiner</b> Jill Gray	<b>Art Unit</b> 1782	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,10-12,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,10-12,14 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Pursuant to the entry of the amendment of June 30, 2010, the status of the claims is as follows: Claims 1-2 and 10-12 and 14-15 are pending. Claims 3-9, 13, and 16-27 have been cancelled.

#### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-2, 10-12, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartbauer et al., 3,960,272, and 3,912,571 (Hartbauer), for reasons of record.

Hartbauer teaches a rolled multi-ply product of the type contemplated by applicants, comprising a rolled multi-ply fibrous structure having a core end and a tail which is bound to another portion of the multi-ply product by an adhesive, wherein the tail of the multi-ply fibrous structure comprises a consumer accessible tab, as required by claim 1. See Figures 11-15. As to the requirement that at least a portion of the consumer accessible tab that is accessible to a consumer is positioned between the tail end of the multi-ply fibrous structure and the tail seal glue, it is the examiner's position that the change in location of the consumer accessible tab within the same general location as the prior art tab and performing the same function as the prior art tab constitutes no more than an unpatentable rearrangement of parts. See MPEP 2144.04. In addition, Hartbauer teaches that the multi-ply fibrous structure is freely convolutedly wound from the core end out to the tail end to form a rolled multi-ply product, the tail is

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sealed to the fibrous structure with at least a portion of the consumer accessible tab more proximal to the tail end than the adhesive, using an adhesive and that said tab comprises at least two plies bonded together, as required by claims 2 and 14. As to the consumer accessible tab exhibiting a greater bond strength than the ply bond strength throughout the remainder of the multi-ply fibrous structure, it is the position of the examiner that this requirement would have been obvious to one of ordinary skill in this art at the time the invention was made to reduce unraveling of the product by inadvertently pulling the tab during handling such as removing the product from commercial packaging and to provide sufficient pull strength when accessing the tab for consumer use. Regarding claims 10-11, the consumer accessible tab of Hartbauer extends from about the tail end of the fibrous structure along the fibrous structure towards the core end of the multi-ply fibrous structure. Regarding claim 12, Hartbauer specifically teaches that his fibrous structure can be a multi-ply fibrous structure. Accordingly, the examiner has reason to believe that the at least two plies of the multi-ply fibrous structure are bonded together by mechanical and/or chemical and/or electrostatic forces in the absence of factual evidence to the contrary. Applicants are invited to provide such evidence. As to claim 15, Hartbauer teaches that the multi-ply fibrous structure can be a sanitary tissue product. See '272 column 12, line 50 and '571, column 12, and line 52.

Accordingly the teaching of Hartbauer would have rendered obvious the invention as claimed in present claims 1-2, 10-12 and 14-15.

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4. Claims 1-2, 10-12, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartbauer et al., 3,960,272 and 3,912,571 (Hartbauer) as applied above, and further in view of Von Paleske 6,924,042 B2, for reasons of record.

Hartbauer is as set forth above and teaches a rolled multi-ply fibrous product of the type contemplated by applicants. Von Paleske teaches that it is known in the art to form multi-ply products wherein at least two of the plies are bonded together. See abstract and column 2, lines 25-63. Therefore, it would have been obvious to one of ordinary skill in this art, at the time the invention was made to use as the multi-ply fibrous product of Hartbauer, a multi-ply fibrous product of the type taught by Von Paleske and as known in this art, namely, a multi-ply fibrous product wherein the first ply and second ply are bonded together.

Therefore, the combine teachings of Hartbauer and Von Paleske would have rendered obvious the invention as claimed in present claims 1-2, 10-12, and 14-15.

### ***Response to Arguments***

5. Applicant's arguments filed June 30, 2010 have been fully considered but they are not persuasive.

Applicants argue that Hartbauer provides no motivation or reason to rearrange its parts to arrive at the claimed invention, further arguing that Hartbauer's fold cannot be properly rearranged to arrive at the claimed invention.

The examiner disagrees for reasons stated above. In particular, the positioning of the tail seal glue can be adjusted and modified commensurate with the desired

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amount of fold of the multi-ply product, during routine experimentation. This adjustment is not construed to be inventive.

Applicants argue that Von Paleske's teachings fail to overcome the deficiencies of Hartbauer.

In this regard, the teachings of Von Paleske are relied upon for all that he would have reasonably conveyed to one having ordinary skill in this art, namely, that it is known in the art to form multi-ply products wherein at least two to the plies are bonded together.

No claims are allowed.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill Gray whose telephone number is 571-272-1524.

The examiner can normally be reached on M-Th and alternate Fridays 10:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jill Gray/  
Primary Examiner  
Art Unit 1782

jmg